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December 5, 2000

HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

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REDACTED --
FOR PUBLIC INSPECTION

Re: Ex Parte Communication, CC Docket No. 00-176

Dear Ms. Salas:

Enclosed for entry into the record of the above proceeding are materials submitted by Digital Broadband Communications, Inc. ("Digital Broadband") to the Massachusetts Department of Telecommunications and Energy on December 4, 2000, relating to Verizon's DSL provisioning, including pre-ordering, installation, loop quality, and maintenance and repair. This filing is made in accordance with the Commission's September 22, 2000 Public Notice, DA 00-2159.

Please contact me with any questions regarding this matter.

Sincerely,

E. Ashton Johnston

E. Ashton Johnston

EAJ/jas

Enclosures

cc: Eric Einhorn (by hand delivery)
Susan Pié (by hand delivery)
Cathy Carpino, Esq., Massachusetts Department of Telecommunications and Energy (w/o enclosures)
Josh Walls, Esq., U.S. Department of Justice, Antitrust Division, Telecommunications Task Force

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December 4, 2000 [illegible] FILED

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FEDERAL EXPRESS and ELECTRONIC MAIL

Cathy Carpino, Esq.
Hearing Officer
Massachusetts Department of Telecommunications and Energy
One South Station, Second Floor
Boston, Massachusetts 02110

Re: Digital Broadband – Verizon Data Reconciliation

Dear Ms. Carpino:

On behalf of Digital Broadband Communications, Inc. ("Digital Broadband"), this submission follows up on the November 20, 2000 data reconciliation meeting among Michael Isenberg and Scott Simon of the D.T.E., Verizon, and Digital Broadband. Specifically, that meeting concerned data that Digital Broadband previously provided in response to your November 3, 2000 letter concerning (1) the performance of Verizon's loop graphical user interface ("GUI") and loop qualification database ("LQD") and (2) troubles appearing on loops following their delivery by Verizon to Digital Broadband. The enclosed information is being submitted subject to the terms of the Protective Order in D.T.E. 99-271.

This submission replies to Verizon's largely oral responses to Digital Broadband's data at the November 20 meeting, and represents the result of a substantial commitment of time and personnel by Digital Broadband. Digital Broadband notes that, particularly with respect to loop troubles, the information provided by Verizon on November 20 was – as Verizon conceded at the time – incomplete; even so, Verizon has not provided any additional information regarding loop troubles.

Performance of the LQD. In response to your November 3 letter, Digital Broadband provided data regarding LQD performance for the month of July 2000. At the November 20 meeting, Digital Broadband and Verizon agreed that (1) the total number of July orders at issue was almost exactly ** orders, and (2) of these ** orders, which Digital Broadband had first submitted for qualification through the GUI/LQD, Digital Broadband submitted ** of the orders using the "manual" order process. Digital Broadband's July data (like the broader set of data it submitted to the Federal Communications Commission) showed that a large percentage of these manual orders resulted in the receipt of Firm Order Commitment ("FOC") dates for the orders and therefore resulted in a significant percentage of what are known as "false negatives," since presumably if the LQD had functioned properly it would have provided a positive response to the initial qualification inquiry.

At the November 20 meeting, Verizon distributed what it called a "synopsis" of its response to Digital Broadband's July data. Verizon's synopsis and its oral statements about that synopsis, however, failed to focus on the issue at hand, which was whether the LQD provides reliable and accurate responses to DSL loop qualification inquiries. Instead, and without any explanation, Verizon focused on whether it had been able to ascertain whether the LQD contained any "loop length" corresponding to each of the July orders. Verizon did not address whether the LQD correctly or incorrectly answers a query about whether a particular loop can provision xDSL service – which is the relevant inquiry here and at the FCC.

As reflected in the LQD responses for certain July 2000 Digital Broadband queries that are included herewith as Attachment 1, LQD responses include a field titled "xDSL Qualification Indicator," which is the next-to-last field in the response. This field contains either a "Y", indicating that the LQD states that the loop is qualified for xDSL service for the customer at issue, or an "N", indicating that the LQD states that the loop is not qualified for xDSL service.[1] As shown below, and as Digital Broadband previously has reported, the LQD that Verizon makes available to Digital Broadband to use to try to

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[1] Although in its November 21 data Verizon states (again, in reference to loop length rather than to the "yes" or "no" response of the LQD) that a loop would or would not qualify for "adsl," the LQD in fact is represented to encompass other forms of DSL and it is not clear why Verizon uses "adsl."

qualify xDSL loops is not reliable. One result of the fact that the LQD does not function properly is that Digital Broadband must incur the time and expense of exploring other means to determine whether a loop is qualified, which all too frequently includes placing manual orders for loop qualification (in other words, finding out whether a "no" response is a false negative). Another result is that Digital Broadband receives a FOC date from Verizon after placing an order in response to a positive response from the LQD and attempts to provision service, only to discover subsequently that service cannot be provided (in other words, finding out that a "yes" response is a false positive).

On November 21, Verizon e-mailed to Digital Broadband and the D.T.E. a spreadsheet that Verizon stated identified for the ** Digital Broadband manual July 2000 orders the "unique PONS identified as manual." The spreadsheet simply filled in the PONs for the different categories that appeared in Verizon's November 20 synopsis.

In the synopsis and in the spreadsheet, Verizon identified a subgroup of ** orders as having a loop length in the LQD, or what Verizon refers to as "LiveWire." As stated above, Verizon's synopsis and spreadsheet conspicuously fail to address the fundamental question at issue of whether the LQD provided an accurate "yes" or "no" response for the July 2000 orders that Digital Broadband submitted manually after attempting to qualify the same loops in the LQD. Stated differently, the issue of whether ** of the ** manual orders had loop lengths in the LQD simply does not go to the issue of whether the LQD responded accurately with an "Y" or "N" response when Digital Broadband submitted its loop qualification inquiry.

Based on the synopsis and the spreadsheet, it appears that of the ** July manual orders, Verizon addresses 27 of them through its carefully crafted phrase that the loop length in the LQD for these orders "did qualify for adsl." Attachment 1 hereto, however, shows that for eleven of these 27 orders, Digital Broadband's queries to the LQD received a "no" for "xDSL qualification" and that for several of these orders, the database provided no loop length information at all. Moreover, by referring to the information on these orders that Digital Broadband supplied to Verizon on November 15, one also can determine that Digital Broadband ultimately provided service to customers on seven of those eleven orders. In other words, for these orders Digital Broadband proceeded with a manual loop qualification for loops that the LQD indicated did not qualify. (Digital Broadband agrees that three of the 27 orders had "yes" responses from the LQD and

should not have been submitted manually.)[2] Similarly, Digital Broadband also has ultimately provisioned service for loops that Verizon represented in its synopsis and its November 21 data had a loop length "that did not qualify for adsl."

As to another large subset of the ** manual orders, Verizon's synopsis and November 21 spreadsheet state that ** of the orders had "no loop length in LiveWire." As Digital Broadband has shown, it has been able to provision service for loops that have no loop length in the LQD or LiveWire, and has received a negative response for xDSL qualification, thereby demonstrating the inadequacy and unreliability of the loop information provided by Verizon. More importantly here, however, for purposes of this reconciliation exercise is the fact that again Verizon is focusing on whether loop length can be ascertained in the LQD instead of whether the LQD provides accurate and reliable Yes or No responses to Digital Broadband's qualification queries. Digital Broadband respectfully submits that Verizon is attempting to deflect attention away from that basic and fundamental metric (which, as Digital Broadband has previously noted, was not measured by KPMG) because it reveals that the LQD does not function properly and does not comply with Verizon's OSS parity obligations under federal and state law.

Troubles Occurring Following Loop Delivery. In response to your November 3 letter, Digital Broadband provided data regarding loop troubles in August and September 2000. At the November 20 meeting, Digital Broadband and Verizon reviewed these orders and eliminated from discussion certain non-Massachusetts loops. Verizon then provided brief, primarily oral, responses to the troubles that had been identified by Digital Broadband. Verizon did not state how extensive a search it had conducted. However, Verizon indicated that it would conduct a further review to determine whether it has additional records, in particular trouble tickets associated with service order numbers provided by Digital Broadband. To date Verizon has not provided any such information.

Enclosed herewith as Attachments 2 and 3, respectively, are compilations of Digital Broadband's log reports and test results for xDSL orders for August and

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2 For 22 orders Verizon claimed that it did not have sufficient in formation to verify loop length in the LQD. The necessary data should be available to Verizon based on the information Digital Broadband provided; in any event – as it did with PON information that Verizon claimed it needed in order to respond – Digital Broadband may be able to assist Verizon in developing information relevant to the inquiry at hand.

September 2000. As is apparent from this data, Verizon's November 20 responses were inadequate to accomplish a reconciliation of Digital Broadband's reports of post-installation troubles.[3] Verizon's initial responses also were misleading to the extent it reported "no trouble ticket" or "no trouble found," yet admitted that these responses were based upon an incomplete review of its records. In any event, as reflected in the attached records, of the August orders for which Verizon claimed "no trouble ticket" or "no trouble found," Digital Broadband's records contradict Verizon in nearly every instance.

In summary, of 30 August xDSL orders,[4] Verizon agrees with Digital Broadband that four experienced Verizon-related failures after testing and installation. Verizon also agrees that thirteen orders had trouble tickets opened – and thus that troubles did occur after Verizon delivered the loop to Digital Broadband – but categorizes eight of these as "repair" troubles.[5] For thirteen orders, Verizon claims either no troubles or no trouble tickets; Digital Broadband agrees as to only one of these orders. (For two orders, Verizon claimed that it had insufficient information to provide a response; Digital Broadband now supplies substantial additional information documenting the troubles associated with these two orders.)

Of the 15 non-duplicate September xDSL orders, Verizon agrees with Digital Broadband that one experienced a Verizon-related failure after testing and installation. Verizon also agrees that four had trouble tickets opened, but characterizes two as repair

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3 Verizon's responses included "on time" notations that do not appear to be directly relevant to the issue of post-installation troubles; moreover, at the November 20 meeting Verizon admitted that the notation of "yes" or "no" may be based not upon an original FOC date but on a later date (e.g., after Verizon missed an initial FOC date). Digital Broadband does not concede the accuracy of these notations.

4 One August xDSL order and eleven September xDSL orders have been deleted from the November 10 list because, as Verizon has noted, they related to orders for facilities in states other than Massachusetts. August and September T1 orders also are not listed below. Verizon did not respond to Digital Broadband's reports of installation troubles for those orders, which Digital Broadband believes were part of the D.T.E.'s November 3 data request.

5 Typically these "repairs" occurred on circuits for which Digital Broadband could not complete its installation until Verizon completed delivery of T1 transmission facilities ordered by Digital Broadband and which are an integral part of Digital Broadband's ability to provision service.

troubles. Verizon claims that six orders had no troubles or trouble tickets; Digital Broadband disagrees as to all six of these orders.

Should you have any questions regarding this submission, please contact me.

Sincerely,

E. Ashton Johnston

Counsel for Digital Broadband
Communications, Inc.

Enclosures (Attachment 1 by Federal Express only)

cc: Michael Isenberg, D.T.E. (By FedEx)
Scott Simon, D.T.E. (By FedEx)
Bruce Beausejour, Esq., Verizon – Massachusetts (By FedEx)
B. Kelly Kiser, Digital Broadband Communications, Inc.

ATTACHMENTS REDACTED